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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,810	11/04/2003	Jean-Pol Boutique	CM2707ML	6268

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EXAMINER

BOYER, CHARLES I

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/700,810

Applicant(s)

BOUTIQUE ET AL.

Examiner

Charles I. Boyer

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 10-13, 16, 17, 19 and 27-32 is/are pending in the application.
- 4a) Of the above claim(s) 1-4, 10-13, 16, 17 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is responsive to applicants' request for continued examination received January 19, 2006. Claims 1-4, 10-13, 16, 17, 19, and 27-32 are currently pending.

#### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-4, 10-13, 16, 17, and 19 drawn to a laundry detergent, classified in class 510, subclass 475.
  - II. Claims 27-32, drawn to a laundry detergent, classified in class 510, subclass 475.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have different compositions. Prior art that would render obvious or anticipate one invention would not necessarily anticipate or render obvious the other invention. Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.
3. During a telephone conversation with Ian Robinson on February 28, a provisional election was made without traverse to prosecute the invention of group I, claims 27-32.

Art Unit: 1751

Affirmation of this election must be made by applicant in replying to this Office action.

Claims 1-4, 10-13, 16, 17, and 19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 27-32 are rejected under 35 U.S.C. 102(e) as being anticipated by  
Gott et al, US 6,638,527.

Gott et al teach a personal care cleansing product comprising 1.6% silicone quaternium-8 (a quaternized siloxane containing polysiloxane and polyquaternary

Art Unit: 1751

ammonium moieties), 0.3% polyquaternium 11, a mixture of anionic, nonionic, and zwitterionic surfactants, and water (col. 13, example 2). Preferred cationic polymers are cationized guar gum and are present in a range between 0.1 and 3% (col. 8, lines 23-60). With respect to claim 32, the examiner notes that when  $d=0$  and  $b=0$ , any polysiloxane containing quaternary ammonium groups, and hence, silicone quaternium-8, will satisfy this cationic silicone polymer. As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

6. Claims 27-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Patel, US 5,747,435.

Patel teaches conditioning detergents comprising 0.6% polyquaternium 10, 0.5% silicone quaternium-2 (a quaternized siloxane containing polysiloxane and polyquaternary ammonium moieties), a mixture of anionic, and zwitterionic surfactants, and water (col. 15, example 22). Preferred cationic polymers are cationized guar gum and are present in a range between 0.2 and 0.7% (col. 7, lines 49-56). With respect to claim 32, the examiner notes that when  $d=0$  and  $b=0$ , any polysiloxane containing quaternary ammonium groups, and hence, silicone quaternium-2, will satisfy this cationic silicone polymer. Note that these compositions are suitable as light duty laundry detergents (col. 9, line 10). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

7. Claims 27-32 are rejected under 35 U.S.C. 102(b) as being anticipated by

Art Unit: 1751

Birtwistle, US 5,302,322.

Birtwistle teaches hair conditioning detergents comprising 0.1% Jaguar C13S which is a guar-based cationic polymer, 0.25% quaternary silicone containing polysiloxane and polyquaternary ammonium moieties, a mixture of anionic, and zwitterionic surfactants, and water (col. 5, example 2). With respect to claim 32, the examiner notes that when  $d=0$  and  $b=0$ , any polysiloxane containing quaternary ammonium groups, and hence, the quaternized silicone taught by the reference will satisfy this cationic silicone polymer. As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

8. Claims 27-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Hardy et al, US 6,743,760.

Hardy et al teach hair conditioning detergents comprising 0.15% guar hydroxypropyltrimonium chloride, 0.7% silicone quaternium-8 (a quaternary silicone containing polysiloxane and polyquaternary ammonium moieties), a mixture of anionic, and zwitterionic surfactants, and water (col. 7, example 3). With respect to claim 32, the examiner notes that when  $d=0$  and  $b=0$ , any polysiloxane containing quaternary ammonium groups, and hence, the quaternized silicone taught by the reference will satisfy this cationic silicone polymer. As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Art Unit: 1751

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles I. Boyer whose telephone number is 571 272 1311. The examiner can normally be reached on M-Th 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571 272 1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Charles I Boyer  
Primary Examiner  
Art Unit 1751